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The Opinion

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# THE OPINION



Volume 31, No. 6

STATE UNIVERSITY OF NEW YORK AT BUFFALO SCHOOL OF LAW

October 23, 1990

## Coming Out Day Marred by Attack

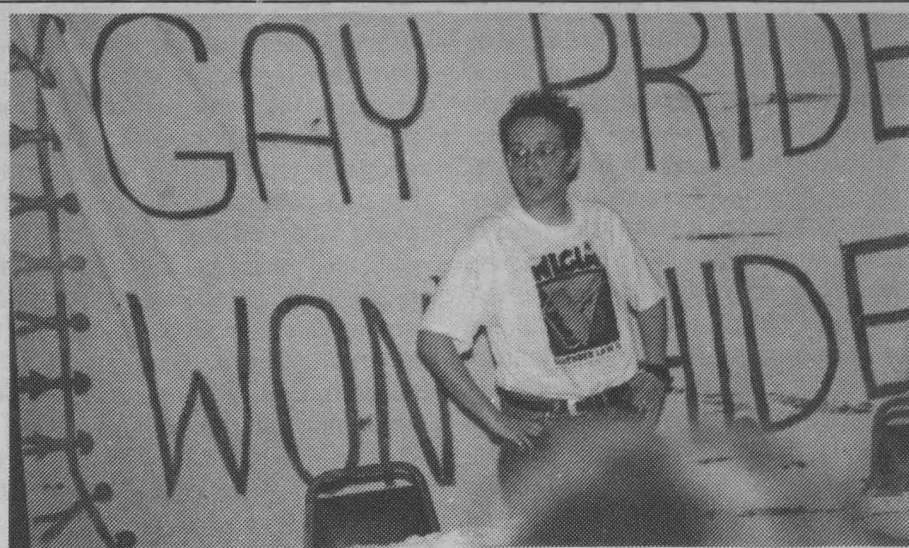
By Maria L. Germani  
Editor-in-Chief

On Thursday October 11th-National Coming Out Day, vials of sulfur were hurled at a table set up by the Gay Law Student Organization across from the law library. One vial hit a passing student. The perpetrator(s) have yet to be apprehended. The incident was a failed attempt to disrupt the group's activities.

National Coming Out Day celebrates the anniversary of the 1987 March on Washington for Lesbian and Gay rights. More importantly, it is the recognition and celebration of the sexual identity of the significant and often discriminated lesbian and gay population. It is celebrated to combat the exact kind of sul-

fur-filled vial-throwing kind of behavior which occurred on this campus October 11th. But this blatant act of aggression was not the only disturbing occurrence that day for the gay community. What could be more insulting than to have the only employers with express discriminatory hiring policies against gay and lesbians recruiting on campus the same day?

Once a quiet minority, gays and lesbians have tapped their collective strength and found their voices, taking strong stands against explicit and covert policies isolating and discriminating them based on their sexual preferences. One example of this strength is manifested through the Lambda Legal Defense and Education Fund, Inc. Lambda is the country's foremost lesbian and gay rights



Terri Mayo, President of Lesbian and Gay Law Students

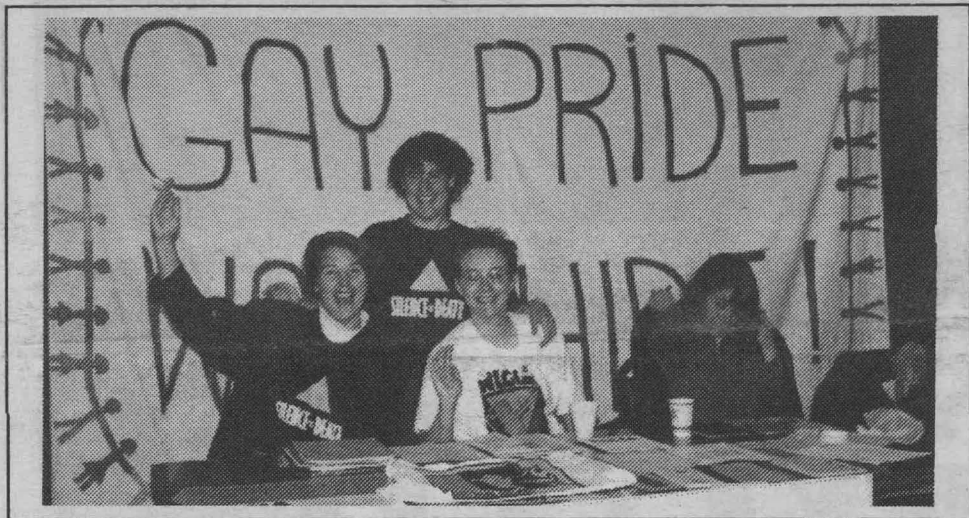
legal group founded in 1973 to defend and extend the rights of lesbians and gay men through test-case litigation and public education.

In their own display of strength and determination, SUNY at Buffalo law students have filed a complaint to the New York State Division of Human Rights against the University. The complaint alleges the University's violation of Executive Order 28.1 (B1) which states:

"No State agency or department shall discriminate on the basis of sexual orientation against any individual in the provision of any services or benefits by such State agency or department."

The complaint further alleges, "As gay and lesbian students, we have been discriminated against by the University at Buffalo as the Law School CDO has provided State employment agency services to an employer who, as a known and stated policy, denies us any employment opportunities."

The lawsuit is the culmination of unsuccessful attempts by law students in the past two years, to end the JAG Corps' access to the Career Development Office. The complaint was released at a press conference held by law students on National Coming Out Day.



Gretchen Stork, Kathleen Welch and Terri Mayo

## Judge Arcara Hits Project Rescue with TRO

by Natalie A. Lesh

On September 27, 1990, Federal District Court Judge Richard J. Arcara issued a Temporary Restraining Order against Project Rescue of Western New York, the local chapter of the nationwide pro-life Operation Rescue group. The Order was the result of an action brought against Project Rescue by the Pro-Choice Network of Western New York and five local health-care providers. According to UB Law Professor Lucinda Finley, one of the attorneys for the plaintiff, the purpose of the lawsuit is to "protect and vindicate the constitutional rights of people seeking health care services," not only the rights of women seeking abortions. Finley views the temporary injunction as a balancing between Project Rescue participants' rights to picket and express their views on abortion, and the rights of people seeking access to health-care services, since many abortions are performed in facilities which house other health-care providers as well.

The Temporary Restraining Order, which remains in effect until Judge Arcara rules on the motion for a permanent injunction, provides that Project Rescue, its officers, agents, representatives, and persons acting in its behalf, are enjoined and restrained from:

1. trespassing on, sitting on, blocking, impeding or obstructing access to,

ingress into or egress from any facility at which abortions are performed in the Western District of New York;

2. demonstrating within fifteen feet of any person seeking access to or leaving such facilities, except for sidewalk counseling, which may consist of a conversation of a nonthreatening nature by not more than two people with each person they are seeking to counsel (it is also provided that no one is required to accept or listen to sidewalk counseling and that if any person who is sought to be counseled does not want such counseling, wants to leave, or walks away, that they have the right to do that, and in such event the persons seeking to counsel the person shall cease and desist from such counseling of that person);

3. physically abusing or tortiously harassing persons entering or leaving, working at or using any services at any such facility;

4. making any excessively loud sound which disturbs, injures, or endangers the health or safety of any patient or employee of any such facility, or which interferes with the rights of anyone not in violation of the Order; and,

5. attempting, inducing, encouraging, directing, aiding, or abetting in any manner, others to take the actions described above.

The order also specifically states that nothing in it "shall be construed to limit Project Rescue participants' exercise of their legitimate First Amendment rights,

"and that Project Rescue must make a "good faith effort" to instruct those that they believe to be planning to participate in any of the enjoined activities against doing so. Finally, any Project Rescue participant who fails to comply with the Order is subject to civil damages of \$10,000 per day for the first violation, and double the previous fine for each successive violation.

In response to Judge Arcara's issuance of the Order, Project Rescue, and specifically the pastors of the Western New York Pro-Life Clergy Council, have argued that their First Amendment rights have been violated. They contend that the Order prohibits them from quoting various passages from the Bible which may be viewed as encouraging some of the enjoined activities, which in effect censors what they can preach from the pulpit. Arcara made a statement last week regarding this charge, in which he emphasized the part of the Order which explicitly provides that Project Rescue's exercise of its legitimate First Amendment rights have not been limited, and that the Order should not be interpreted as doing so. Finley, too, claims that this accusation is "absolutely, totally false." She also points out that a similar injunction issued in the Southern District of New York was recently affirmed by the Court of Appeals for the Second Circuit, and that permanent injunctions against Operation Rescue are in effect in both the Northern and Eastern Districts of New York. Therefore, this Order, would

merely extend to the Western District, which includes seventeen counties, the protection already afforded most of New York State.

Attorneys for Project Rescue have submitted a motion to dismiss, on the grounds that a case involving the same Plaintiff and Defendant is pending in state court, and that the federal court should therefore defer to the state court and abstain from exercising its jurisdiction. Oral argument on the motion is scheduled for Friday, October 19 at 2 p.m. It is possible that Judge Arcara will also rule on the motion for the permanent injunction at this time.

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# Finley and Oliphant Square Off on FPPs

by Andrea Sammarco  
News Editor

The validity of fetal protection policies in the workplace was the subject being discussed last Thursday in a debate sponsored by the Federalist Society. Professor Lucinda Finley and Lincoln Oliphant, the Legislative Council for the Republican Study Committee, were invited to expound on the topic, specifically as it is addressed in the pending Supreme Court case, *U.A.W. v. Johnson Controls*. The debate was prefaced by an introduction from Professor Wade Newhouse, and approximately 60 people turned out for the event.

In the controversial case *U.A.W. v. Johnson Controls*, a battery manufacturer is called upon to defend its policy of barring all women in their childbearing years from certain jobs in its factories. Johnson Controls claims that in doing so it is attempting to protect the fetus of a pregnant woman from being exposed to the high lead levels that go along with certain manufacturing positions, and that it has reasonable justification for doing so. However, the U.A.W. asserts that the policy is overly broad, and discriminates against women in violation of the fourteenth amendment, as well as Title VII of the Civil Rights Act of 1964. The case was decided in favor of Johnson Controls, on summary judgment in the lower court, and the record contained many materially disputed facts. Oral arguments before the Supreme Court took place on October 10.

The first speaker was Lincoln Oliphant, a John M. Olin Lecturer of Law, who began with an explanation of the history of the federal courts' decisions involving

the legitimacy of job requirements. Oliphant explained that such requirements generally have been found to be valid under either a theory of "business necessity" or of "bonafide occupational qualification." He posited that although the "business necessity" defense would probably require too much legal ingenuity and be difficult to demonstrate, Johnson Controls could show that the policy represented a "bonafide occupational qualification." "This level of lead presents a potentially dangerous physiological harm to children...and the interests of good health of that third party can't be weighed, even by its mother." He said that Johnson Controls had a "long standing concern for the health and welfare of workers and their families." Oliphant argued that although the blood lead concentrations associated with these jobs fall within acceptable OSHA limits for adults (50 micrograms per deciliter of blood), they exceed the recommended 30 microgram limit for children, thus providing Johnson Controls with the rationale to defend its policy. "If we don't provide some defense," he concluded, "then no fetal protection policy will ever stand, no matter how important the concern is."

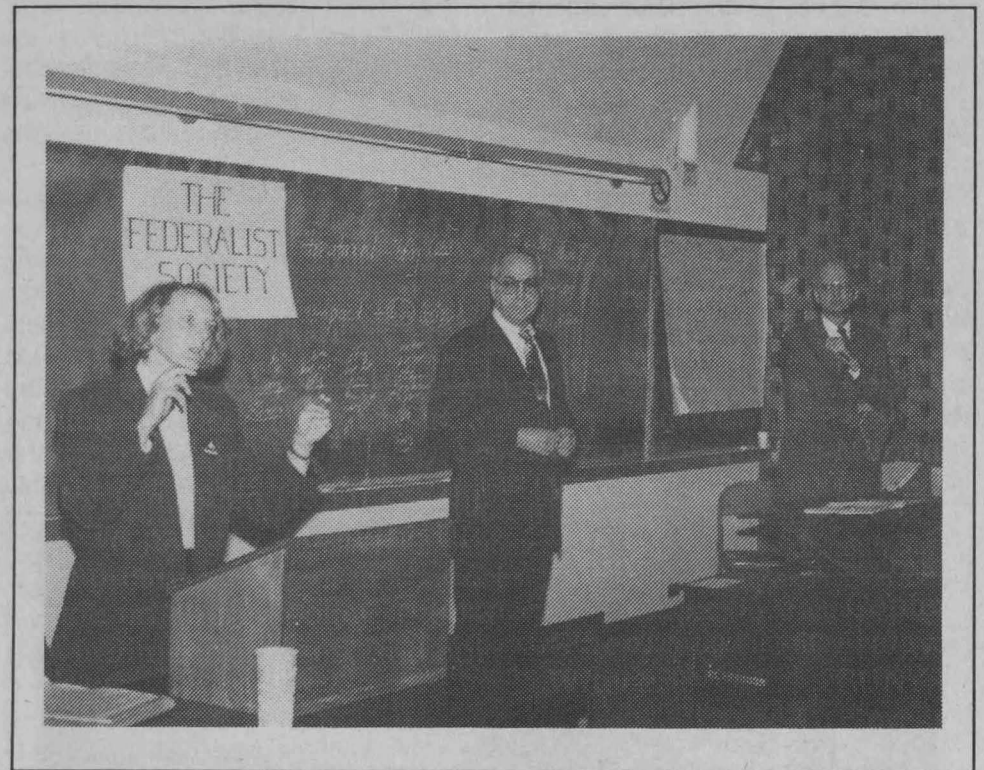
Professor Finley has filed an *amicus curiae* brief in the case and has authored numerous speeches and writings on the subject. She began her response by examining the broad social perspective of fetal protection policies, claiming that they have usually been adopted in male dominated job lines as barriers to entry for women. She argued that the many risks that exist in the workplace could conceivably be used to foreclose countless jobs to women. If only the currently disputed policy were

upheld, it could mean the foreclosure of an estimated 20 - 25 million jobs. Finley claimed that the real motivation behind Johnson Controls fetal protection policy was a "fear of tort liability" in the event of a child damaged by the abnormally high lead levels. Even so, she argued, the facts demonstrate that eight healthy children were born to women involved in that line of production.

As to Johnson Controls concern for its employees, she rebutted with the fact that they are currently under investigation by the EPA for toxic dumping in residential areas. They also failed to recognize the recent EPA study showing that the lead limits set by OSHA are

too high, and that the exposure limit for all adults should be set at 10 micrograms. This is especially true for men, who are at a greater risk of heart disease from exposure.

There was scattered applause during the debate when Finley referred to Johnson's position as an "excluding women policy". Oliphant's introductory statement and rebuttal were punctuated by Professor Finley's comments on the applicability of a statistic he quoted her as using, and the accuracy of an assumption Oliphant made on a woman's ability to determine whether or not she is pregnant.



Prof. Lucinda Finley (left), and Lincoln Oliphant (far right) moderated by Prof. Wade Newhouse (center).

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# AIDS Danger to Dentists Questioned

by Chet Gary

The dental profession, in cooperation with state health departments, should close the gaps left by law in improving access to dental care and shift the cost of occupationally related AIDS infection from the dentist to the government. The private dental community must competently confront duty to treat issues before we find ourselves under the restriction of governmental mandate. Camus, in *The Plague*, described the futility of hiding from an imminent danger:

... during the Marseille plague... the Bishop, having done all that it behooved him, shut himself up in his palace, behind high walls, after laying in a stock of food and drink. With a sudden revulsion of feeling, such as often comes in times of extreme tribulation, the inhabitants of Marseille now turned against him, piled up corpses around his house in order to infect it and flung bodies over the walls to insure his death. Thus in a moment of weakness, the Bishop had proposed to isolate himself from the outside world—and, lo and behold, corpses rained down on his head! This had a lesson for us all; we must convince ourselves that there is no island of escape in time of plague.

The Center for Disease Control paints a grim prognosis for the AIDS epidemic. The CDC, in 1988, estimated that up to 200,000 individuals have AIDS Related Complex (mild symptoms of AIDS) and HIV now may infect an estimated one and a half million persons. AIDS will present a challenge to dentistry for the indefinite future. Dental professionals

must learn to face this challenge.

Dentists stand in the front lines of diagnosis, referral, management, and counseling of the AIDS patient, as well as in prevention for high risk patients. Although HIV does not directly result in a disease process which affects the oral mucous membrane or perioral area, opportunistic infections, such as candidiasis (fungal infection) and herpes simplex (cold sores), and neoplastic processes, such as Kaposi's sarcoma (tumor), affecting the oral cavity may signal the initial signs of underlying HIV infection. In fact, thirty-three percent of patients evidence oral lesions as the primary or initial manifestation of infection. Also, children may first manifest HIV related disease symptoms in the oral cavity. The frequent complications of oral infections which lead to general discomfort and systemic opportunistic disease make access to dental care critical for individuals with AIDS. As the number of AIDS cases increases, all dentists must prepare to provide for the stabilization and well-being of these patients.

Occupationally acquired HIV infection among dental professionals has occurred rarely. In the last six years, the number of persons with AIDS has increased about 4000%, while the percentage of health care workers, including dentists, contracting the illness in relation to other workers has not increased. As of November 5, 1989, the ADA Council of Research reported only three dentists have tested positive for HIV, out of 4973 anonymously tested. One of these three belonged to a high risk group. This translates to a risk of about 0.04 percent for dentists to contract the disease from the practice of their profession. Several studies of workers exposed to HIV infected blood,

via traditional routes (percutaneous, mucous membrane or sustained contact with non-intact skin) have yielded seroconversion rates of zero to less than one percent. In contrast, a similar exposure to hepatitis B carries a 6 to 30% risk of infection. Merck, Sharp, and Dohme Laboratories, the makers of Hep B vaccine, estimate that 15% of all general dentists and 21% of oral surgeons have a positive antibody serology, indicating exposure either clinically or subclinically to Hep B. In short, dentists have, for some time, knowingly

**"It appears dentists who refuse to treat AIDS do so for reasons other than a rational fear of infection."**

accepted a significant risk of contracting hepatitis and other diseases from patients, but no evidence shows AIDS is one of them.

Three aspects of the virus itself help explain this low risk of HIV infection. First, the required mode of transmission would seem to limit infectivity. Transmission would require intermingling of both patient and dentist's blood. This requirement significantly reduces the number of potential opportunities for infection. Research has not identified HIV in parotid, submandibular, or sublingual salivary secretions, although infected blood from gingival exudate and nasopharyngeal secretions may, at times, contaminate whole saliva. To date, however, there is no evidence of casual transmission from non-invasive dental procedures, and the apparent lack of transmission via saliva has led many investigators to speculate on the potential of HIV inactivation by salivary antibodies. Second, the lower risk of HIV infection may be dose related. Hepatitis B infected blood may contain more than 100,000,000 free viral particles per ml. In contrast, HIV infected blood usually contains less than 1,000 viral particles per ml., a concentration of 100,000 times less. Thus, one or two incidents of dentist-patient blood contact may not cause infection. Transmission may require repeated blood-blood exposure. Third, on contrast to Hepatitis B virus, the fragile HIV virus survives poorly under adverse and extreme environmental conditions. Changes in temperature and pH will kill the virus and the CDC has shown that drying readily inactivates the virus. Like other retroviruses, routine chemical disinfectants (common household bleach, 70% alcohol, hydrogen peroxide) will also inactivate the virus in 1 to 10 minutes. Because of this fragility and susceptibility

to infection control procedures, virtually no risk of environmental transfer exists.

Nevertheless, some dentists, who refuse to treat AIDS patients, argue that few health care workers risk insured contact with blood and saliva, while providing treatment with sharp instruments readily capable of piercing the protective barriers, to the same extent as the dental staff. Dentist-patient blood intermingling could occur any time an infected patient's blood meets with a dentist's non-intact skin. In dentistry, the gingiva, oral mucosa, dental pulp, and perioral area offer common sources of blood during procedures. The elicitation of blood does not always require surgical or traumatic intervention. Patients with severe periodontal disease may exhibit spontaneous gingival bleeding and Herpetic and other mucosal lesions may bleed from normal oral functions. Non-surgical restorative procedures routinely elicit gingival hemorrhage. A dentist's previously open sores or wounds and cuts or punctures during the procedure would then, theoretically, allow the required contact for transmission. Since exposure could occur even to the most careful operators, practitioners must heavily weigh the severity of the threatened harm. If a dentist contracts the HIV from a patient, he probably will become seropositive for life. In addition, he stands a 70% chance of developing AIDS within seven years. Subtle impairment of the central nervous system may first occur. Once the clinical manifestations of AIDS develop, the average AIDS patient dies within thirteen to eighteen months of diagnosis, with a five year mortality approaching 100%. This, they argue, coupled with the uncertainty created by the unknown incubation period of the virus, creates an unreasonable risk. However, this argument merely restates, convincingly, that the danger is real. It ignores the magnitude of the risk. The successful experiences of thoracic and orthopedic surgeons in preventing HIV infections attest to the fact that risk of infection in the dental operator, with relatively less exposure to body fluid than general surgery, remains very low.

Some dentists refer HIV infected patients because they feel a moral indignation toward high risk groups. They say that this makes compassionate, quality treatment impossible and they contend that referral is in the patient's best interests. But, this argument fails to explain a prejudice against hemophiliacs, and those infected through perinatal transmission. And even if all HIV positive patients belonged to stigmatized groups, moral indignation does not qualify as a permissible distinction to base a refusal to treat. A diagnosis of HIV infection or AIDS is made with intent to provide a treatment benefit, and not made as a basis to justify inferior care. Rather, dentists must weigh the relative health benefits to the patient if the needed care is not provided. Dentists should base their decision to treat on objective medical-dental criteria.

In addition to the low infectivity of HIV, modern infection control procedures reduce exposure of the virus to dental personnel to the level of the normal contacts of everyday life and, hence, a risk too small to quantify. The same universal precautions effective in preventing the transmission of the more infective Hepatitis B virus will, likewise, help prevent HIV infection. Although even double gloves will not protect against needle punctures and/or cuts from scalpels and other sharps, care

CONTINUED ON PAGE 10

## SCC Forum Examines Censorship in the Arts

by Darryl McPherson

As the nation struggles with the question of whether certain forms of art should be censored, part of the battle is taking place right here on our doorstep. After a controversy erupted over the content of an upcoming performance of Survival Research Laboratories at Artpark in Lewiston, New York, the show was cancelled. While the media jumped on the Bible burning aspect of the show, Artpark officials claimed the performance was cancelled due to a contract dispute. Feeling that Artpark was giving in to pressure, various people traveled to Lewiston on the scheduled day of the performance to protest the cancellation.

Eighteen people were arrested for their trouble.

That day, many members of the art community came out to attack the statement being made by Artpark. Through peaceful artistic performances, they made their displeasure known. In response, the state police arrested some of the protesters, who would come to be known as the Artpark 18. Among those arrested were Tony Conrad, a University at Buffalo Media Professor, and Barbara Lattanzi, Video Curator for Hallwalls, a local post modern art gallery. Joined by Elizabeth Licata, a freelance writer, the three discussed the arrest in a forum sponsored by Students for Constitutional Concerns (SCC) on Wednesday, October 10 in O'Brian Room 106.

Before a surprisingly sparse crowd, event organizer Tom Winward showed excerpts of the documentary "Disorderly Concept," which explained the purpose behind the original cancelled performance, and depicted the actual arrests of members of the Artpark 18. Following that were statements from the panelists, giving their unique perspectives on the incident.

The arrests were justified by the lack of a permit to demonstrate. Since there was no great organized movement to disrupt the public peace, the panelists felt Artpark Director David Midland handled the situation poorly. The Artpark 18 was formed in the jailhouse after the arrests. And though an offer to settle the case was made, the Artpark 18's counsel turned it down. Feeling the arrests were motivated by intentions to censor. The group wanted to bring attention to the real issue in this case.

The SCC panelists felt that the news media focused on the Bible burning aspect of the cancelled show without looking into the reasoning behind it. With the 2 Live Crew and Mapplethorpe controversies still lingering in people's minds, it was felt that Western New Yorkers should be made aware that the spectre of censorship looms close to home.

There was a brief question and answer session following the presentation. Most notable was a dialogue between panelists and second year student Norbert Higgins, who offered a conservative perspective to the topic.





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## EDITORIAL

The rape and murder of Linda Yalem several weeks ago affected most of us in one way or another. Most women are more cautious about leaving the school unattended at certain hours, or traveling alone at night after a certain hour. Runners think twice about the route they will take, and Public Safety conducted, and will continue to conduct self-defense information sessions for anyone interested.

Linda's sexual assault may have reminded some of us of close friends or family that have been similarly assaulted. For some women of the UB community, Linda's attack was a sharp, painful reminder of a personal experience. In this issue, *The Opinion* broke from its editorial policy of not printing unsigned letters to the editor. The letter is from a fellow female law student who was sexually attacked almost twenty years ago, and the impact of Linda Yalem's rape on her. The strength and importance of the letter is self explanatory.

Since Linda Yalem's rape and murder, I have witnessed several commendable acts of courtesy and understanding on the part of male law students. Layout for the publication of this paper all too often runs deep into the night. On one particular night soon after Linda's assault, when a first year female law student was getting ready to leave, a male law student offered to accompany her car to her car. Many of us are enrolled in evening classes. Some end at 7:30 p.m., and some end at 9:00 p.m. On one such evening last week while heading towards the parking lot, a fellow male classmate offered to walk with me. The buddy system that we were taught in grade school is as useful now as when we were children. It is a useful method of ensuring that every women leaving the law school at a late hour after class is accompanied by another person. For those men who have already practiced the buddy system, your efforts have not gone unnoticed. For the rest of you, ask the woman sitting next to you in class if she is walking alone to the bus stop or parking lot, or in the company of others.

Staff: Nathaniel Charny, Lenny Cooper, Darryl McPherson  
Contributors: Brian Carso, John Foudy, Chet Gary, Angela Gott, Natalie A. Lesh, Pat Miceli, Hans Tirpak, Tom Winward

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# THE OPINION MAILBOX

## To the Opinion:

On Thursday October 11, the Lesbian/Gay Law Student Organization along with The Gay Graduate group had an information table outside the Law Library in honor of National Coming Out Day. Around 2 pm several unidentified individuals hurled glass vials of sulfur in the direction of the table. One hit a student in the back. If the people responsible for the gassing were trying to make some sort of statement, they failed. In fact they only succeeded in endangering their fellow students.

This futile, pointless act is not a valid means of expression but amounts to an abhorrent act of harassment. We the undersigned will not tolerate such acts and urge the administration and campus security to fully investigate the incident.

Terri A. Mayo, Christopher Thomas, Rebecca Eisen, Kathleen Welch, Jim Maisano, Lara M. Greco, Rodger Doyle, Suzanne Sullivan, Javier E. Vargas, Pamela Taylor, Hilda M. Ramos, Taunya Hannibal, David Duguay, Brenda Mattar, Tara Flynn, Margaret Phillips, George Snyder, Alison Edwards, Jeannette Brian, Judith A. Shanley, Sloane Smith, Cecile Mathis, Toni Delmonte, Leonard Cooper, Kimi Lynn King, Nathaniel Charny, LaMarr Jackson, Daniel J. Weitzner, Mona Igram, Janet Zwick, Andrea Sammarco, Maria Germani, Mark Schlechter, Joseph R. Bergen

## MAILBOX CONTINUED

An Open Letter to John Licata, and all the men who have expressed outrage at the recent violence against women:

After reading your article on the recent rape/murder of a U.B. student and its effect on women, I felt that I had to express my gratitude for your attempt to understand. You stated that while you realized the fear that this is causing in women in the Western New York area, it was a fear that men did not have to experience because you realized you were not the target. And I felt a need to share with you exactly the kind of fear that I, and other women like myself, are feeling.

Rape is certainly a paradoxical crime. Sex, which is the one expression of vulnerability that two people can share, is used to hurt, humiliate, dominate and violate the victim. In our country it is estimated that one out of every four women will be sexually abused. The figure for men is equally abhorrent; one out of approximately seven men will be sexually abused at some time in their lives. And while each one of the victims has their own unique scars, the victims of violent sexual assault also live with the knowledge of what fear of death feels like.

As a victim of a violent sexual assault, I have intensely felt an impact from the recent rape/murders which have occurred. My own rape occurred approximately nineteen years ago. I had learned to deal with the emotional impact of that event. Oh, there were a number of scars which existed. For instance, I have a difficult time allowing myself to show any emotional vulnerability, I always feel nervous when I am alone on an elevator with an unknown man. But I have mostly channeled that event positively, and have worked with victims of many kinds of abuse. It's easy to have empathy when you know where a victim is coming from.

I have been very lucky, in that I have been able to gain emotional security through a loving husband, good friends and wonderful children. Many victims never are able to allow themselves to do so. I have made a place for myself in the community, and I am seen as a competent, caring individual. And I'm exceedingly proud that I will soon be an attorney.

Yet after the most recent sexual assault and murder, I found myself irritable and intolerant. I found it hard to concentrate on things that were normally important to me. I did things that I consider unreliable. And I just could not motivate myself to do the things that I needed and wanted to do. Initially, I chalked it up to stress. After all, law school entails a lot of work, and many other things were going on in my life which might just have been overwhelming me for the moment.

Finally though, I realized that what was really bothering me was a recurrence of all the fears that came from my own violent sexual assault. Let me tell you why I came to that conclusion. It happened when I noticed myself pacing back and forth in my bathroom while brushing my teeth. I was pacing because I was going over in my head what the best way would be to react if assaulted by the rapist. I realized that I had analyzed what I believed was his mindset, based on what I had read of the attacks, police reports and psychological profiles. And I had a plan all ready. Though I don't run, bike, walk or jog in the area where the assaults have occurred, I needed some security to grasp. I was realizing once again how vulnerable I am.

But the emotional pain is greater than just that one incident. I find myself thinking about the possibility of sexual assault while I am driving, while I am dressing, while in class. I wake up to what I should be doing and realize what I have been thinking of instead. And I relive the pain of the sexual assault from two decades ago. I recall the calm, "rational" numbness that I felt when I thought that I was going to die. I remember the way it felt to have a knife at my throat and to think that he was going to leave my body abandoned in the mountains. And I remember the most horrifying fear: when I realized that he was driving me back to where I had come from, and I actually hoped that I would live. The hope that I would actually live, made the realization that he still might kill me all that much more unbearable.

But I did live, and I did heal. And I am now getting help to deal with this recurrence of fear, anger, pain and helpless vulnerability. I know that this post traumatic stress will be temporary. And I am thankful that men express outrage, and offer empathy, and attempt understanding. Because I feel a little more secure knowing that I can trust some men, and that there are men who do respect my right to be safe, secure and inviolate. So thank you John, it really does help.

[Anonymously Submitted.]

## To The Editor:

Rumor has it that an article of mine appeared in the September 25 issue of the Opinion newspaper ("What CDO Never Tells You — Part 2," at 7). Upon reading it, I did conclude that there is an outside possibility that this article is the putrefied remains of what once was a parody story that I wrote. If this is true (and I believe it is), it represents the most irresponsible exercise in butchery that I have ever been victimized by in the name of "editorial license." I submitted a brief article (shorter than the Gurwitz article on the same page), and an Opinion editor cut half of it out, while changing some of the wording. Michael Gurwitz has claimed the credits. According to Gurwitz, there wasn't enough room to print the entire article. In response I replied that common sense and journalistic decency should have informed him that the article should not have been run at all if that much had to be cut out of a parody story. Gurwitz replied that they couldn't afford to lose the space by taking the entire story out.

Thus my journalistic integrity was compromised so that Gurwitz and the Opinion could save face, while preserving and imperializing Gurwitz's political rantings as usual. I think I have a right not to have my articles bastardized and butchered as an expendable sacrifice for Gurwitz's political agenda. Gurwitz's article, which appeared on the same page above mine ("Homophobes beware - Your days are Numbered"), got plenty of space, including a frivolous large-type inset. It is now painfully apparent why the 'good-ole-boys-club' brand of politics was so important to Gurwitz during the newspaper's elections last year. Power, politics and self-serving control over what gets printed and who to pass the torch to for next year — these were the issues Gurwitz thought were important 'press' concerns. Pravda exits the Moscow scene and turns up at the UB Law School . . . isn't that special? A propaganda machine of our very own. Gurwitz couldn't even spell my name correctly - the inevitable result of putting politics and self-advancement ahead of journalistic integrity. It was precisely this result that Andrew Culbertson, last year's Managing Editor, ominously and regretfully predicted in his farewell article last spring, i.e., that special interest politics would push journalistic integrity out of the driver's seat in the coming year.

CONTINUED ON PAGE 5



# Affirmative Action Attacked as Racist

by Hans Tirpak

Young white males are presently being subjected to an opportunity tax designed to pay for the remedying of the effects of past and present racial discrimination against minorities as well as past and present socio-economic disparities between races. The name of this tax is affirmative action. Affirmative action "tax" programs require that white males pay a tax, in the form of losing opportunities, to minorities.

I believe that all poor people, not just poor minorities have been victimized by society, and that wealthy people of all races have for the most part been less victimized than poor people of all races. I also believe that any awarding of social goods that is not done in a racially neutral manner is by definition racial discrimination and in violation of the 14th Amendment to the United States Constitution. In combining these ideas I conclude that the government should try to make opportunities available to all poor on a strictly race neutral basis so as to accomodate all those who have been victimized by society and to make use of potentially invaluable human resources. But, the present political climate appears to be such that this type of program will not be adopted as a replace-

ment for affirmative action.

Since the government will not likely eliminate the race based affirmative action tax on white males, I think that the government should abandon the affirmative action opportunity tax and adopt an affirmative action white male income tax of a few percent of each white male's gross income. The proceeds from this tax could be used to help finance public schools that are made up predominantly of minority students and other minority education programs.

Adopting this tax package could have several beneficial results. Firstly, the cost of remedying the effects of past and present racial discrimination as well as past and present socio-economic disparities between races would be borne by all white males, including the older wealthy whites who are the primary beneficiaries of past and present racial discrimination against minorities. Secondly, poor minorities and the poor white who attend predominantly minority public schools would receive education comparable to the education received by wealthier students, and would probably be able to compete with wealthier students in the job market, thus eventually eliminating the socio-economic disparities between the races and the need for the tax altogether. Thirdly, wealthy whites would be more willing to

send their children to predominantly minority schools, thus ending the de facto segregation that has occurred in many school districts across the nation. Fourthly, since advancements would be

**"...any awarding of social goods that is not done in a racially neutral manner is by definition racial discrimination and in violation of the 14th Amendment..."**

awarded, hopefully, on merit, minorities in high positions would no longer be assumed to be less qualified than their peers or to have received their positions because of the color of their skin.

Several problems would also result

from adopting this tax package. Firstly, poor white victims of society who live in predominantly white areas would be completely left out. However, present affirmative action policies leave them out anyway, so their plight would not be affected. And secondly, there would be no way of assessing when the tax should no longer be collected, except for the greatly flawed notion of race percentage quotas. But, present affirmative action policies face this same problem also.

Overall this affirmative action white male income tax appears to be a big step up from present affirmative action policies in terms of fairness and end result. But, I think that if this tax package were proposed to Congress, C-SPAN would get some very interesting film footage, and the proposal would be flatly rejected. Why? Because with this tax package the rich white liberals who are so fond of providing opportunities for minorities at the expense of poor whites would be faced with footing part of the affirmative action bill with their own money and that of their economic supporters. Instead of doing this, I think the rich white liberals would cease using the ends justifies the means argument in support of affirmative action, and start calling affirmative action what it really is, constitutionally impermissible racial discrimination against whites.

## MAILBOX CONTINUED FROM PAGE 4

Since my name appears as the author, I damn well expect the final result to reflect fidelity to the original; I expect my name to be spelled correctly; I expect political, self-serving interests to be subordinated to journal professionalism; I expect something more than cretinous judgment in editing decisions; I expect my articles to be unmolested by those who happen to disagree; I expect the rules to be applied to everyone, even-handedly.

Twice I have submitted extremely short rejoinders of three or four paragraphs, in response to letters published in the Opinion which I felt falsely represented facts contained in my previous articles. None of these rejoinders was ever printed... the explanation being that newspaper policy did not permit the staff to rebound a response. Yet no less than three times in the last year Gurwitz has allocated to himself generous space for his immediate response to letters critical of arguments he has issued in the press — including the "Opinion Mailbox" in the last issue (Oct. 9, 1990 at 4). Gurwitz always seems to manage to reach deep down inside for one more surreptitious power play that will give him the last word.

I'm sick of the politics at this newspaper; the pettiness; the ego back-rubbing; the truancy from journalistic integrity. I was writing newspaper stories when Gurwitz was still dumping in his diapers. Judging from some of the articles I've read, he's still dumping in his diapers. I will not tolerate political hacks toning down, sanitizing or otherwise molesting my work. I expect the same rule to apply to everyone, across the board, in an even-handed manner. Absent these modest assurances, consider this my resignation. I refuse to be associated with a bigoted, biased political organization which masquerades in the name of journalism. I am entitled to an apology.

Gary Ketcham

To The Editor:

At the end of August, the Law School had their Orientation. We asked F.S.A. Norton to cater orange juice and coffee for us. Mr. Jim Monroe informed them that Orientation began at 8:30 and thought that the beverages should be set up in the Law School lobby by 8:15.

On the morning of Orientation, the beverages had not arrived by 8:30. By 10 to nine a.m., Mr. Monroe had called F.S.A. Norton to find out what was the delay. The response to Mr. Monroe's inquiry was something to the effect of "It's busy over here" and "It will get there when it gets there."

This type of behavior is very rude and unprofessional. Not only does the Student Bar Association expect an apology, it also expects that part of the bill be credited to us, due to the late arrival of the beverages.

It is appalling to find that an organization that provides a service, while under monopoly protection, can abuse its customers and not expect them to raise a fuss. I intend to publish this letter and encourage any group that was similarly treated to speak out.

Sincerely,  
Taunya Hannibal  
S.B.A. President

Editor's Note: Ms. Hannibal originally addressed this letter to Mr. Hosie, F.S.A. Director.

Editor,

I am very concerned about an incident that happened on Monday 10/8/90. On the notice in Room 106 for that afternoon's meeting of the Association of Women Law Students, someone had written "free dildoes for all supplied." I cannot believe that in this day and age this is the kind of reaction that a group of women meeting as women engenders. I hope that this incident is not a precursor to the type of sexual harassment that occurred at this law school several years ago.

Nikki Rademan  
2nd year

To The Editor:

I found the article [by Angela Gott about her learning disability] quite interesting and informative. However, it appears to be very disjointed—it ends in a manner which suggests that something is missing.

I hope that it can be satisfactorily resolved.

Joseph S. Hughes  
First year student

To The Editor:

Accidents will happen! So that Opinion readers may understand my previously published article, here are the sentences in their completed form:

"I thought he needed immediate protections because he was failing his exams and was denied proper accommodations."

"It was this inability to find a means to survive and to learn, despite my learning problems, that was having a negative effect on my ability to learn law properly...I felt that if Section 504 included provisions to protect a person like me, why shouldn't I try to get help and protections?"

"Despite eleven and one half years being in a legal quagmire, I have managed to travel to forty seven of our fifty states and to thirty eight countries."

"You would have to have been there in 1976 and been made to go through all the bad treatment to be able to appreciate fully how the attitudes of the students and faculty have changed."

Angela Gott

To The Opinion,

Conduct such as this glass-throwing incident, the attack on the students at the Gay and Lesbian Coming Out Day table, is thoroughly despicable. It is one thing to engage in a serious, even sharp, exchange of ideas with those with whom one disagrees. That is the essence of free speech and it is protected. It is quite another to do what was done here—to engage in a physical attack intended to threaten, harass and demean others simply because of disapproval of them or their ideas. It is conduct of this type and worse—assaultive conduct by those who would hide their identities while displaying their bias—which led to adoption of our Faculty Statement on Tolerance. As indicated in that statement, expression is fully protected and will generate only responsive speech, but assaultive, harassing or threatening actions, if the perpetrators are discovered, will incur formal sanctions. We are fortunate that in this instance, at least, no one was physically injured.

David B. Filvaroff  
Dean and Professor



## The Italian Loafer: Adventures of a Legal Gumshoe

by John B. Licata  
Features Editor

It was raining that day when I received a notice from the ever vigilant people at the AFSA loan servicing center. They were reminding me that I owed them more money than I could ever hope to raise by selling my plasma downtown. Apparently they were serious about my loan repayment plan. Well, so was I. Unfortunately business was as dead as the fox in Pierson v. Post. Nobody wanted to know anything. One student tried to get me to help with her RAW memo but I'd had enough of the blue book for a while. Even though I was behind on rent and spending my nights in my office, I was smart enough to know that the Feds wanted me to own up to the obligations had signed when I mortgaged my future for a chance at becoming a mouthpiece for some poor reprobate. I had to find some way to get a line on some crazy paper, serious g's, cash, or tax deferred annuities with a present value of approximately \$13,987.32. I was in trouble.

It quickly became apparent that all my material possessions would not cover the first month of payments and that I needed to sell something more substantial, something unique, something not stolen. Selling stolen goods gets you thrown in jail with men who sing country and western songs until three in the morning. Besides, I have a personal interest in keeping my physical liberty despite the precepts of J.P. Sartre. Selling drugs lost out since I needed to do the work in a relatively independent manner and too many percentages get cut out of the profits. It's an ethical thing too. I didn't like the paradox of dealing in something regarded as nirvana and a pariah that wasn't being shown in an art gallery. The only thing left was my soul.

There was a pawn shop on the corner of K\_\_\_\_\_ and B\_\_\_\_\_ (done on the advice of F. Dostoyevsky) so I sauntered over there to find the going rate for eternal spirits. I thought I'd get a good price since my clients were always telling me that I had the soul of saint. I told the lean, black robed individual behind the counter what my clients had told me.

"Who the hell wants the soul of saint? I get people in here all day and nobody, but nobody has ever asked to buy the soul of a saint. Last time somebody bought a soul from me was in 1968 for some national campaign. And he wanted to lease the damn thing," he gave me the upward movement of his arms in the all too familiar gesture of acquiescence. I gave him a gesture of my own and walked out into the rain.

Shop after shop it was the same story. The market on souls had peaked during the 1980s with everybody unloading saints and picking up a discounted model with loose moral fiber. Some got a BMW key chain thrown in if they knew how to negotiate. I was a dinosaur heading into the winter of discontent.

I found my way to the campus CDO to check on a firm that would give me something near the going rate. I was getting desperate and a flyer in my mailbox about Union-Busting Firms caught my eye, but I thought better of it. I had come up against some of the union

boys and they knocked some respect into my head, some teeth out of it and spilled a couple pints of my blood. Those garment workers are tough. Things were getting crazy in my head so I applied to a firm with more diverse names than the United Nations roll call. A few days later I got the call. See you Monday.

My neck was stiff from the over-starched collar and I felt like the wooden indian in a cigar store as I waited for my turn from the bullpen. The firm was interviewing a billion candidates for the step-n-fetch position at the firm with a policy of not notifying you until you had already missed a week of work. It made employment review more of a surprise oriented occasion. Eventually a dazed student walked out of the interviewing room and a smoky voice beckoned me into the parlor. Jelly jumped into my knees as I closed the door behind me - inside sat a woman so attractive she bent light. I decided to downplay my sainthood.

"Hello, Mr. L\_\_\_\_\_, (Dostoyevsky again) how are you?" she said warmly with a smile that said "Leave."

A friend of mine took Negotiation Techniques and told me that it is sometimes better to remain silent when you're not sure of your tactics. I had nothing but sometimes that can be a pretty cool hand. I said hello.

"Why are you interested in X\_\_\_\_ Q\_\_\_\_ Å\_\_\_\_ LL\_\_\_\_ Ç\_\_\_\_ and Ø\_\_\_\_?" She was writing on a piece of paper and she talked without looking up.

I'm selling my soul to the highest bidder. You want in?

That stopped her. Her eyes came up (she signed the sheet and put it in an envelope, but her eyes still came up) and she smiled a knowing smile. "So, a wise ass."

My soul for menial labor aimed at destroying the principles I had fought for in college and at the polls for \$70,000 a year. No questions asked. It took me a few minutes of fancy dancing to convince her that I was serious. By the time we got to the Lambada she was talking terms.

I walked out with a solid offer for my soul though I still had the use of it until I graduated. But my screaming conscience and a turning stomach meant one thing - gumshoe intuition didn't like what was happening. My brain was telling me that law school was going to be a kick and that I'd be giving instead of getting. The rest of me felt like I had been rooming with a barrel of toxic waste. I asked the fates to take a hand in the matter and give me some oracle arguments.

Outside the library a few BPILP people were plastering flyers to the walls of the school in their ever optimistic attempt to mobilize the student body on some important issue.

"Hey L\_\_\_\_\_, are you coming to the LRAP meeting?"

The Loan Repayment Assistance Program. I smiled at my own karma, I could keep my soul after all. Just show up and help.

## Scholarship Established

The family of Linda S. Yalem, the University student found slain several week ago, has established a memorial fund in her honor. The fund has been designated to support a University scholarship program. Contributions to the fund may be forwarded to:

University at Buffalo Foundation, Inc.  
Linda S. Yalem Memorial Scholarship Fund  
P.O. Box 590  
Buffalo, NY 14231

Checks should be made payable to the U.B. Foundation. The name of the memorial scholarship fund should be noted on the memo section of check. Please include your address so that proper acknowledgement may be made.

Thank you for your support.

## A Call for Responsible Art

by Brian Carso

A few weeks ago film-maker and TV director David Lynch dished up some of his standard fare. This season's first episode of *Twin Peaks* closed with an eerie sequence showing the violent rape and murder of a female character. No sooner had the episode ended when a Buffalo news update reported that a 22 year old UB student was sexually assaulted and killed over the weekend while jogging.

Art mirroring life?

And the 2 Live Crew performed in Niagara Falls: "I'll break ya down and d—k ya long/Bust your p—y and break your backbone." On the same day a woman was raped at Daemen College.

Art mirroring life?

No. Something else, more ominous and complicated.

No one seriously doubts that our popular culture can effect the behavior of people; at least some people, some time. Fairy tales change the lives of children, in ways Bruno Bettelheim explained in detail. The career of Bill Cosby may have surpassed busing laws in bringing blacks and whites together. Today, Americans are looking to popular culture more than ever as part of a desperate attempt to discover human values in an age that is arguably more difficult than any other. It is more difficult because the rapid velocity of change in our world forces our beliefs to be tentative at best. More difficult because the diversity of opinion that confronts us through our popular culture and mass media creates a chaos in which taking a stand makes one feel more vulnerable than courageous.

An admirable and important goal of education is to foster an open mind, but let me insist on this: an open mind can be dangerous if it is not at the same time a vigorously critical mind. A critical mind distills the important from the trivial; it demands that we look for human value, and makes us conscious of lies. The First Amendment presupposes a critical citizenry. Somehow, this challenge must not elude us.

The traditional sources from which people have gotten their system of values have come up against obstacles. The values of our parents, of religion, and of traditional authority figures don't always fill contemporary needs. Too often in their place is a pervasive voice, found in our magazines, on our TVs, radios, and movie screens. The messages contained within our popular culture are slick and easily comprehended. Our reliance on popular culture has given the popular "artist" a position of power.

I suggest that with this power we need to demand an increased responsibility.

Because our musicians, writers, filmmakers, comedians, etc., have attained a degree of influence—or, at the very least, a pervasive presence—that out-reaches any prior historical role, we should be holding them to a significantly higher standard than that by which they operate today.

Unfortunately, our popular culture has been allowed to propagate without having to live up to any serious moral standards. I use the term "moral" to mean that which affirms life. A significant amount of popular culture does the opposite: in the hands of the mediocre artist, our popular culture too often debases and dehumanizes in order to provide what is essentially a cheap thrill. And too often, that which is debasing is allowed to pass—or is even praised with words like "controversial" and "provocative"—because it is hidden within the unqualified idea of "art," an idea most often regarded with a hands-off philosophy rooted in a misguided notion of relativism, and rationalized as a virtuous show of tolerance.

There is a notion of *carte blanc* subjectivity expressed among students that if some object has any aesthetic value for some one individual, then nobody else should seek to impose a standard whereby that object's value is judged. The ability of our collective intelligence to make distinctions between the moral and immoral (read "humanizing" and "dehumanizing") is continually doubted, for fear of sliding down some slippery slope until we find objection in even the most innocuous material. In fact, legislative and judicial history is mostly made up of reasonable acts and decisions; to suggest that we're no longer capable of setting limitations is disingenuous at best.

Yet the cry is heard that trends change, that some profanity from our ancestor's time is palatable today. But confront what is before us: do we ever want the explicit depiction of rape and murder for the purpose of entertainment to be passively accepted? Do we want to provide an audience for musicians who celebrate the violent degradation of women, while at the same time we mourn those who have suffered beyond our comprehension the horrors of violent sexual assault?

Consider the opinion of a great American bard, Walt Whitman: "The literature, songs, aesthetics, etc., of a country are of importance principally because they furnish the materials and suggestions of personality for the women and men of that country, and enforce them in a thousand effective ways."

What literature, what songs, have suggested the behavior of the depraved among us who have caused such grief?

We need to think more clearly than we have.



# Changes in Code of Professional Responsibility

On Friday November 16th, the MPRE will be administered in New York state. The MPRE is the ethics portion of the bar examination which all bar candidates must pass to practice law in New York. If you missed the October 19th registration deadline for the November exam date, don't panic-there are late registration deadlines you can make. The MPRE is also administered in the Spring. Admissions and Records has a brochure/registration packet which contains the exam dates, locations, deadlines, and fees.

On September 1, 1990 new rules

by Maria L. Germani  
Editor-in-Chief

governing the ethical and business behavior of practicing attorneys took effect. The revisions affect such areas as lawyer-client confidences, contingency fee arrangements, and the use of the media to try cases in public. The changes, designed to update the Code of Professional Responsibility, are the

first in more than a decade.

Among the more significant changes as reported in a publication of the New York State Bar Association are:

**-Lawyer misconduct:** A lawyer to report to disciplinary authorities non-confidential information that raises "a substantial question" as to another lawyer's trustworthiness.

**-Disclosure of client confidences:** Authorizes that a lawyer reveal client confidences when they discover that an opinion or representation they made contains "materially inaccurate information" or is being used to further a crime or fraud.

**-Withdrawing from a case:** Allows a lawyer to withdraw from representation when it is discovered that a client has used the lawyer's services to perpetrate a crime or fraud, even if such withdrawal is prejudicial to the client.

**-Contingency fees:** Prohibits contingency fees in domestic relations matters and, for the first time, requires that all contingency fee arrangements be made in writing.

**-Trial publicity:** Clarifies the standards that apply to trial publicity by setting forth general criteria that statements may not be made to the media when a lawyer

knows there is a substantial likelihood they will materially prejudice a judicial proceeding.

## BELS UPDATE by Lucy Kruggel

The Buffalo Environmental Law Society has held two meetings so far this year. Indicative of UB Law students' increasing dedication to environmental issues, we enjoyed a larger turnout than expected.

We have several projects underway, covering different aspects of environmental law. Several students are assisting in the research and writing of an appellate brief for the Atlantic States Legal Foundation, in its citizens' suit against Kodak for Clean Water Act violations.

Another group of students are working with the Niagara River Action Committee and the DEC. They are helping to assess impairments to the river, with improved water quality through Remedial Action Plans as the eventual goal.

Students with an interest in the Buffalo River are working with a local organization, the "Friends of the Buffalo River." They are helping design the curriculum for an environmental education center on the waterfront, and looking at the assessment and land use problems along riverfront property.

Upcoming projects may include a public outreach canvas in conjunction with Greenpeace concerning a planned local incinerator project.

If you are interested in learning more about these projects, come to the next meeting—they are held on the first Wednesday of each month in the fourth floor lounge at 5 p.m.

# Carl Sagan Expounds on the Universe

by John Foudy

On Sunday October 14, Dr. Carl Sagan spoke on "the state of the world," the focus of the 1990-91 Distinguished Speakers series. Dr. Sagan is a world famous scientist, astronomer, Pulitzer prize-winning author and author of the television series "Cosmos."

The focus of his lecture was on the serious environmental problems facing the Earth, and what can be done to alleviate them. The principal problems addressed were global warming and ozone depletion.

Dr. Sagan began by explaining how space exploration is beneficial to mankind. Man has learned a great deal about our own planet's environment, by studying other planets in our solar system. For example, space probes have

**"The principal problems addressed were global warming and ozone depletion."**

shown that Mars has no ozone layer, there is nothing to block out ultraviolet radiation. As a result organic molecules, the building blocks of life, cannot exist exposed on Mars' surface. The lack of ozone precludes the existence of life forms. Dr. Sagan pointed that this is a "reminder to us," as we continue to destroy the thin ozone layer that surrounds the earth. Our ozone depletion is caused chiefly by the emission of CFCs into the atmosphere. While some

progress has been made to cut down on these gases, it is not quickly enough for our environment.

Studies of the atmosphere of Venus also add insight into our own atmosphere. The atmosphere of Venus is much thicker than ours and is comprised almost solely of green house gases such as CO<sub>2</sub> and methane. Green house gases are so called because they let in solar radiation, but do not let infra-red radiation out. The temperature on the surface of Venus can melt tin or lead.

Global warming of our earth is a serious and pressing problem, because little is being done about it. The burning of fossil fuels emits CO<sub>2</sub>. Dr. Sagan showed that in the past the concentration of CO<sub>2</sub> in the atmosphere had a strong correlation with global temperatures. We have been pouring more and more CO<sub>2</sub> into the atmosphere and the current worldwide temperature is nearly at a 150,000 year high. A further increase will likely cause flooding of low areas, and climatic changes such as the drying out of American croplands.

As a starting point, Dr. Sagan stated, we need greater fuel efficiency, especially in cars. Cars and coal-fired power plants are the principal producers of CO<sub>2</sub>.

Nuclear fission doesn't produce green house gases, but has its own, in Dr. Sagan's view, intractable problems. Those problems include the risk of catastrophe, waste disposal, and weapons production.

He regards the solution as being solar energy, either direct production of electricity, or the production of hydrogen gas, which when burned yields water. He envisions huge arrays of solar panels located in deserts. He stated that the technology is there, but the national will has not been. He noted that one of the

first things President Reagan did upon taking office 9 years ago was to remove a solar-thermal water heater that President Carter had installed.

It was noted that reducing or even eliminating CO<sub>2</sub> production is not the whole answer, there is a need to reduce CO<sub>2</sub> already in the atmosphere. The most efficient and probably only practicable means of doing that is to plant trees. However, we would need a forest the size of the United States. Currently the amount of the world covered by forests is being reduced at the rate of an acre a second.

A crowd of approximately three thousand turnout for the lecture; this was the second largest turnout for a lecture in the series' history. Two other lectures are planned for this year's speaker's series, Congresswoman Patricia Schroeder will speak in November, and ex-National Security Advisor Zbigniew Brzezinski in April.



CARL SAGAN

## The Faculty Statement: Let's Make It Count

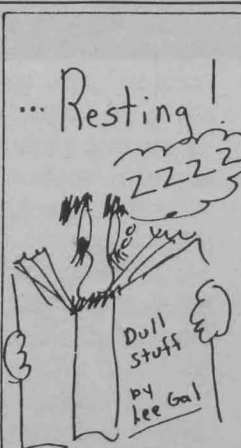
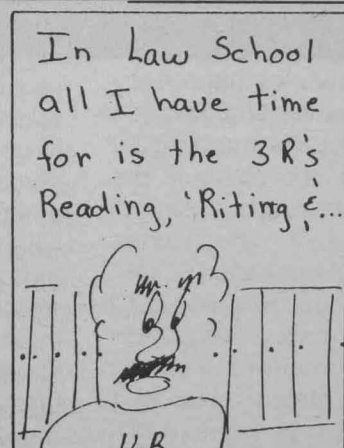
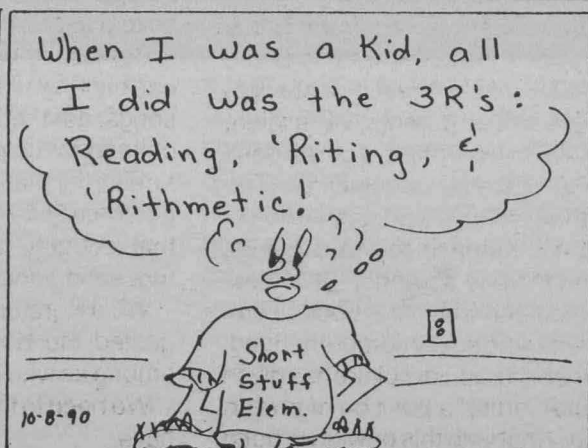
by Tom Winward

In the last issue of the Opinion, we learned the results of the opinion poll concerning the faculty statement. As I expected the statement met with a general sense of disapproval. Certainly there have been other indications of discontent among the students in past years, the law suit and many letters and debates are just a few. The survey even indicated that there are faculty members who are not happy with the statement but through mixture of pride and legal entanglements are not willing to

abandon or revise the statement.

One of the more unsettling developments of the survey results (aside from the general appearance of student apathy) is the reaction by some of those who support the statement. In a reaction which I view as "sour grapes," supporters of the statement claim that the methodology of the survey was poor (no controls etc.) and therefore the results are flawed. I agree, the results are probably suspect and the results, as a survey, probably carry little weight. So here is the solution, submit the same question to the student body in a vote. Likewise, I would like to see the issue appear on the agenda of a faculty meeting also, if possible, put to a vote.

The time has come for everyone to take a stand on the faculty statement, students and faculty alike, in the open. It seems that most of the problems with the statement boil down to uncertainty. I think that the law suit, letters, the survey and hopefully a referendum, will make all views known and bring the law school community one step closer to solving the problems created by the statement as well as those problems the statement was designed to address.





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# Balancing Personal and Professional Life

by Elizabeth Kent

Two practicing attorneys addressed the Association for Women Law Students on Monday, October 15, in the First Floor Lounge. Carrie Smith and Deborah O'Shea, both of Smith, Kellehaze (?) in Buffalo spoke about balancing personal and professional aspects of life as an attorney. Smith graduated from UB in '89 and has been practicing for eight months. O'Shea has been practicing for eight(?) years. The presentations of the two women were dissimilar in that Smith is single and has no children while O'Shea is married to an attorney and has stepchildren.

Both attorneys agreed that it is necessary for male and female attorneys to be flexible and try to maintain a sense of

humor while trying to balance the demands of professional life with the demands of home and family life. O'Shea suggested that a mate be "someone who is very flexible and will take on some" of the responsibilities of household and children. Smith said "hopefully, crises will not coincide" at home and work.

O'Shea emphasized that it is possible to do a decent, competent job in all aspects of life, but that it is not possible to "be perfect or give 100% without having a nervous breakdown." An easy answer was not given by either attorney on where or how to compromise or choose between the demands of professional and personal life. Each of the attorneys emphasized that what worked for them might not suit the needs of the people attending the presentation. Prioritizing, making budgets and a calen-

dar combining schedules for work and home was suggested.

"The male role is changing" within both the family and the office, according to O'Shea. Attorneys may have been raised in one career families, but economic constraints now often dictate the need to have two career families. In that case, O'Shea claimed that the "woman has to tell the man that he has to help." because it usually "falls more on the woman to deep the house running as well as the career running."

"Kids are seeing moderation occurring as a result of two career families. It is no longer as much of a stigma to have kids," O'Shea said. Older partners in firms are becoming more aware of the dual demands of home and office placed upon women. The partners may be sensitive to child care responsibilities and constraints because their daugh-

ters may have careers and children." O'Shea did not say how prevalent the older partner sensitivity might be. The need for adequate child care arrangements were discussed and the child care facility opened be a Buffalo attorney was mentioned as being populated by children of many local attorneys.

O'Shea reminded her audience that a firm "is a business and that there is productivity expected" of each employee. She said that it is possible to work and be a parent. The success of working and parenting depends largely, O'Shea claimed, on "keeping the lines of communication open" between attorney and firm, and between mates. Success is dependent, O'Shea and Smith agreed, upon the firm itself, the nature of the practice, and how the attorney handles the demands of work and home life.

## Gay Conference Attended

U.B. Law School Gay Law Student Organization representatives Terri Mayo and Brenda Mattar attended the National Gay and Lesbian Law Association (NGLA) in Atlanta on October 5 - 8. NGLA is the most influential bar association representing gay and lesbian issues. The keynote speech was delivered by Judge-elect Donna Hitchens of San Francisco Superior Court, she is the first "openly lesbian" candidate elected to the consistently conservative position without first having been appointed to fill a vacancy. Ms. Nan Hunter, the former Director of Gay and Lesbian Rights for the American Civil Liberties Union (ACLU), was the honoree of the

by John Licata  
Features Editor

conference. Ms. Hunter is now teaching at a law school in the northeastern United States.

The NGLA conference, "Lavender Laws II" is held every two years which makes the schedule of discussions and variety of informal meetings indispensable to addressing the concerns of the members of NGLA. At this year's conference Terri Mayo was elected to the organization's Board of Directors and she expressed confidence that UB Law is now "plugged into a network . . . that will enforce the ABA's (American Bar Association's) policy of non-discrimination based on sexual orientation."

Part of the overall goal of the conference was to demonstrate that gay and lesbian issues are not isolated civil rights concerns but ideas that cut across traditional lines of political interest. One of the many issues addressed was the recognition of diversity within the homo-

sexual community and utilizing the diversity as a means for coalition building. Of particular importance is the changing family dynamics. Ms. Mayo described the basic realization that "the American family is no longer a mother, a father and 2.2 children. There are single mothers,

**"the American family is no longer a mother, a father and 2.2 children."**

co-habitants raising children, extended families and the issue of gay and lesbian parenting." Ms. Mayo said that the families that don't conform are discriminated by employers, landlords and the law.

Judge Hitchens discussed the element of coalition building among political activists by using her own political victory that embraced all groups concerned with civil rights issues as an example. Her campaign depended upon a reaching across "barriers" of ethnicity, religion and sexual orientation. to secure a victory in a district populated by several minority groups not known for approval of homosexuals. The central strategy of coalition building is to limit divisiveness within the coalition by aiming the entire political energies of the various groups at the paramount issue common to all groups involved. NGLA is utilizing Civil Rights as the common basis for its political coalition and has had some success in San Francisco.

## Contracts—A Tall and Incredibly Long Story

by Srikanth Ramaswami

I had a scary dream last night. You see, Uncle Corbin, grandpa Williston and Mr. Llewelyn came over to my house to party. We had a great time initially, and talked about many subjects and experiences. But as the hours grew late and the alcohol began to take effect, we began to discuss the importance of contract theory in our lives.

Mr. Llewelyn, being in high spirits, started to complain that I was running out of beer. "Srikanth," he said. "You might have to compensate me with some expensive vodka, so that I can be put in the position of inebriety that I would have been in, had the beer been here." I was rather intimidated by this statement realizing that if I didn't deliver value on the promise I had made, the repercussions would be serious. So I ran to the corner store to get some more beer.

At the corner store I was faced with a dilemma. They had no beer and nothing seemed fungible. So rather than disappoint Mr. Llewelyn, I went to another store. As I brought the beer to the counter, the owner was fighting with his employee for having agreed to work for four months, and quitting after three. Now, the ex-employee wanted his three months' pay and the employer refused, citing breach of contract. Having been exposed to a similar situation, I advised the employee to sue on quantum meruit, and then, making my payment, I returned home.

As I walked through the door, Mr. Llewelyn expressed a sigh of relief that I had arrived. "We needed the extra beer!" he exclaimed. "Dr. Fuller and Mr. Purdue decided to drop in. They're in the next room, discussing restitution and reliance with grandpa Williston. I think you better go salvage the situation. For some reason, they're in an intense debate about some guy called Vickery." Realizing the strict disciplinarian that grandpa Williston was (he always stuck to his contracts) I entered the next room and tried to mitigate the debate.

After things cooled off, we all went into the living room. Uncle Corbin was there, viewing some rare vases on the table. He kept restating the beauty of these vases and suddenly, one of these fell from his hands and broke. "That's my precious vase," I exclaimed. "No amount of damages will bring it back. It's unique." I thought for a second about suing under specific performance but abandoned the idea in good faith.

As it approached dawn, everyone was tired and exhausted. What a party it had been! Suddenly, I heard a knock on the door. It was Dr. Hawkins wondering if any of us needed help. This was too much of a nightmare . . . I awoke in a cold sweat.

## Graduate Group Seeks to Resolve Conflicts

by Bob Reschke

The Graduate Group on Cooperation and Conflict Studies is an interdisciplinary group of faculty, graduate and professional students interested in cooperative behavior and conflict resolution broadly defined. Members presently on the roster come from five Faculties. The group receives financial support from the Vice Provost for Research and Graduate Education and from external grants.

The purpose of the group is to encourage and facilitate research and interdisciplinary dialogue about the theories and strategies having to do with (a)

the prerequisites of cooperation, and the risks of payoffs of cooperative behavior in various sorts of circumstances, and with (b) resolving or managing different kinds of conflict, and in particular factors which promote integrative or cooperative solutions in contexts of divergent interests. The group also (c) facilitates public service concerned with promoting cooperation and integrative dispute settlement, by maintaining contact with external groups and associations in the fields of dispute settlement and peace research. Contacts outside the University have been established with the Western New York Dispute Settlement Center, the Alternatives to Violence Project, Inc., and the NYS

Martin Luther King, Jr., Institute for Nonviolence.

The Graduate Group on Cooperation and Conflict Studies is currently sponsoring an ongoing series of informal colloquia, known collectively as the CCS Forum, where faculty and graduate students can introduce research projects and present papers in a friendly atmosphere. Group projects for the 1990-91 academic year include: (a) the CCS Forum where faculty and students introduce research projects and present papers in an informal setting; (b) a New York State Student Conference entitled "Nonviolence in a Pugnacious World" scheduled for April 26-27, 1991; (c) a Miniconference on "Case Studies in

Cooperation;" and (d) the formation of a newsletter.

Upcoming presentations will include the preliminary defense of a doctoral dissertation on arms races and disarmament and the trial run of a group report on cooperative learning which will then be given at a national conference in the spring. The group is interested in sponsoring additional presentations either alone or with the co-sponsorship of academic departments or special interest groups. Any individuals interested in an opportunity to present their research are urged to contact Bob Reschke in the Political Science Department, 413 Park Hall, or by calling 636-2166.



# The Lowdown on Getting Down

by Darryl McPherson  
Staff Writer

Today I'm going to discuss a subject that probably touches each and every law student. While it is not a sensitive topic, just the mention of it has been known to stir the average student into a frenzy. And I'm sure everyone has an opinion about it. What is it I'm talking about, you wonder?

Parties.

From orientation on, an incoming law student is told to be ready to party. They come in various forms, from potluck dinners to major league beer bashes. These activities are a necessary release from the tremendous stress created by our legal studies. Parties are so important to the law school community that even the SBA throws one every year.

Usually, all that's needed is an excuse to throw a party, but even that isn't a requirement. Birthdays are usually good, but there's a problem with timing. Maybe it has something to do with Libras and the scales of justice thing, I don't know, but there were a bunch of birthdays jammed together in late September and throughout October. A surprise party was thrown for a friend of mine on a weekend, but her birthday actually fell on the following Monday. While everyone celebrated regardless, it's generally nicer to have the party on the actual day.

Ironically enough, two other parties were taking place on the same night.

One was thrown by the Federalist Society, and the other was Rodger Doyle's. I couldn't make the Fed party, but I did manage to check out Rodger's.

And so did everyone else. I don't think I've ever seen so many law students at one party that wasn't held at a bar. Rodger "Malcolm Forbes" Doyle has a rather large house that's conducive to throwing huge bashes. Apparently he does this every once in a while, but this was my first. He had a real mix of people, too. Unless a student group is throwing it, generally those assembled are comprised of people from the same year.

I find that having a reason for the party helps its attendance. Law students are always busy, and I think it's easier to rationalize blowing off work if you have the slightest hint of an excuse. One of the biggest fears when throwing a party is that no one will show up. You sit there with all this food, beer, and pop, and you wonder how popular you really are. I'm an early arriver usually, and I've seen the anxiety. Fortunately, people do show up. After all, these are law students we're talking about.

At the end of last semester, I threw a party at a friend's house for Section Three to celebrate the end of the school year. When planning that party, I tried to think of everything. I wanted every base covered. At the risk of sounding immodest, I've been told that it was one of the better parties thrown last semester.

But it didn't have everything. It lacked an element that's been missing from

most, if not all, law school parties. I know that I'm not the only person who's noticed that there's never any dancing. And I don't understand why. Those who attend these parties are young, and appear to be healthy. It's not illegal to dance in Erie County. So what's the problem?

I know some people can dance. At Nietzsche's, law students have been known to move their feet to the reggae beat. And I've seen some serious motion at Garcia's. But outside those club walls, the biggest activity is lip flapping, usually on some law related topic. Yawn. Either that, or some adventures in creative drinking, a la games like "Sink the Titanic" (if you don't know what that is, ask around, I'm sure someone will gladly educate you).

I also know some people want to dance, but don't. I suppose the fear factor has something to do with it. People are hesitant to be the first on the floor to shake their booties, so it's not surprising that dancing isn't a common occurrence. Furthermore, few parties actually make accommodation for dancing in the first place.

The conditions, I think, have a lot to do with it. At my party, though the music was relatively conducive to dancing, the atmosphere wasn't. Most of the people were outside (it was a warm night), and despite the relief of having finished our first year of law school, we weren't happy enough to be dancing in the streets (we're law students, not the cast of "Fame") Also, there are so many varied

tastes in music that it's hard to find something everyone will agree is good.

Yet there was room inside and nobody danced. I expect the fear factor was in effect, and I'll admit I didn't do anything to encourage tripping the light fantastic. But whenever I see a party depicted in the media, people dance. Dancing is a sure sign that everyone is relaxing, and for once I'd like to see an attempt to shed the uptight law school image. Otherwise, everyone just stands around, drinks, and makes small talk. Though these things allow for a chance to unwind, it doesn't make for exceptional memories.

On Saturday the 27th, Nicole Moss is throwing a Halloween party, complete with costumes. It promises to be an interesting affair, and I'm sure it'll be something to remember. This party has a gimmick, and that in itself sets it apart. Now every party can't be sense-shattering, so don't be discouraged from having a party (as if anything I said would stop someone from partying). All efforts are appreciated, and a definite part of the law school experience.

The SBA is working on ideas for the next big social event. If you have any ideas, grab your elected class director, and let them know what you think. If you don't know who your directors are, shame on you, and put any suggestions in the box on the SBA door office. The party is for you, the law students at U.B., and you have a say in how it's to be done.

Personally, I'm pushing for lots of dancing.

## CONGRATULATIONS

### Tara Burke, Kathleen Welch, and BPILP!!

At the Second National Awards Ceremony and Banquet sponsored by NAPIL, two awards were given to UB Law representatives:

\*The award for the NAPIL member program with the greatest growth (for a program under \$25,000), was given to our very own BPILP. BPILP fundraising efforts, which are geared exclusively towards providing summer grants to UB law students working with local legal services agencies and other public interest organizations, experienced a 300% growth. Last year we raised more than a \$25,000 total. Way to go!

\*An award was given to Tara Burke for her role as an Outstanding Grant Recipient. Tara worked last summer, and continues to work for, the Volunteer Lawyer's Project in Buffalo. Tara implemented an innovative program which recruits local pro bono attorneys to represent

tenants in eviction proceedings before the Buffalo City Court. Prior to Tara's summer efforts to implement the "Attorney of the Morning" program, there was no organized pro bono effort to represent tenants who cannot afford legal representation.

\*Kathleen Welch was elected the president of NAPIL Board of Directors. Last year she served as vice-president. She will be representing the organization in a variety of forums, including the American Association of Law Schools annual meeting in Washington, D.C. in January. In addition, Kathleen Welch will continue to coordinate the NAPIL Board of Directors and its Executive Committee. These include four other student officers, as well as five other non-student representatives from the public interest law community, the legal education community, and the private bar.

## Dentists and AIDS

continued from page 3

and thoughtful manipulation of contaminated instruments will prevent accidents. Practices, such as not recapping used needles and storing sharps in puncture resistant containers, allow the caregiver to control risks through his own caution.

Finally, estimates of the number of seropositive individuals in the United States range from 500,000 to 1.5 million. Even if the lower estimate is correct, we can infer that most metropolitan dental offices have knowingly or unknowingly treated seropositive individuals. This dramatically demonstrates the safety of the dental operator in this country. Even with the large number of infected patients who have obviously received treatment, there are only two documented reports of seroconversion of dental personnel, not part of a high risk group, who have used proper bar-

rier controls (gloves, mask, eyewear, gown) and no reports of patient to patient seroconversion. It appears dentists who refuse to treat AIDS patients do so for reasons other than a rational fear of infection. The need for personal assessment becomes obvious when one considers the difference between danger and fear. They relate inconsistently. Danger, an objective property, may elicit the psychological response of fear in some, but not others. A reasonable danger, therefore, has to be based on the response of most persons to any situation and not a dramatic response by a minority. We cannot allow an unproven fear of contagion to supercede the clinical reality.

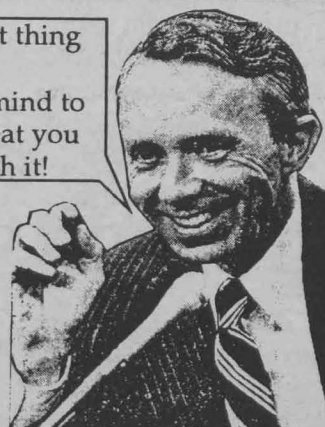
Editor's Note: Mr. Gary is a practicing dentist and third year law student.

## How the Senate Confirmation Hearings Really Went...

Q.

...Dave, is it true your boyhood idol wasn't Cardozo or Holmes, rather, Groucho Marx?

That's the craziest thing I evva hoid!  
Why, I have the mind to join a club and beat you over the head with it!



Q.

...What is your position with respect to schools banning Bart Simpson T-shirts?

Carumba, dude!  
They can eat my shorts!  
I wouldn't have a cow over this one...



Q.

Dave, do you have any other personal policy considerations you wish to appraise this panel of?

Gentlemen, I am a simple man with simple aims. My *personal* policy considerations are no less simple. I stand resolved, and will rule accordingly, in seeing Brillcreme become our national hair care product.





# The Docket



## THANK YOU FOR YOUR ENCOURAGING RESPONSE TO OUR FIRST APPEAL FOR MEMBERS.

THE BAR REVIEW COLLECTIVE NEEDS YOUR HELP. IF YOU HAVEN'T ALREADY SIGNED UP, DO SO NOW — IT WILL DO YOU NO HARM. ALL WE ARE ASKING FOR IS YOUR SUPPORT IN BRINGING THE OUTRAGEOUS PRICE OF A BAR REVIEW COURSE DOWN. YOU WILL NOT BE COMMITTED TO TAKE THE COURSE THAT THE COLLECTIVE CHOOSES IF IT IS NOT THE ONE YOU WANT. NO MATTER WHAT, YOUR CHOICE WILL HAVE TO LOWER ITS PRICE TO COMPETE.

ALSO - WE NEED A LITTLE HELP FROM A LOT OF PEOPLE IN EACH CLASS TO KEEP THIS THING ALIVE. CONTACT RODGER DOYLE OR JIM MONROE AS SOON AS POSSIBLE.

WATCH OUT, COMPLACENT BAR COURSES - IT'S HAPPENING!

**What:** A Panel Discussion on the Energy Crisis.  
**When:** Tuesday, 10/23, at 7:30 pm.  
**Where:** First Floor Auditorium, Allen Hall (near the Park and Ride NFTA parking lot on the UB Main Street Campus.)  
**Lowdown:** A panel discussion on energy policy, the Middle East, environmental crises, and our American way of life.

**What:** Opinion General Meeting.  
**When:** Wednesday, 10/24, at 3:30 pm.  
**Where:** Opinion Office, 7th Floor.

**What:** "Tradition, Transition, Revolution: Voices of Women in the Middle East."  
**When:** Wednesday, 10/24, at 8 pm.  
**Where:** UB Harriman Theatre on the Main Street Campus.  
**Lowdown:** Staged readings followed by a public dialogue with two middle eastern playwrights. Call 636-2575, or 875-6678 for more info.

**What:** National Lawyer's Guild Meeting.  
**When:** Thursday, 10/25, at 6 pm.  
**Where:** The Central Park Grill, on Main Street near Fillmore.

**What:** Betty and Alan's Section 2 Halloween Party.  
**When:** Friday, 10/26, at 6:30 pm.  
**Where:** 52 Rosedale Avenue  
**Lowdown:** Open to section 2 who come clad in costume.

ON NOVEMBER 1, 1990, A SPECIAL EVENT WILL BE TAKING PLACE AT OUR LAW SCHOOL...

**WARD STONE, NYS DEC WILDLIFE PATHOLOGIST**, WILL BE SPEAKING ON...

**"POLLUTING MOHAWK LAND: PROBLEMS AT AKWASASNE."**

THIS IS A ONCE IN A LIFETIME CHANCE TO MEET THE ENIGMATIC BULLDOG OF THE DEC, THE MAN WHO CAUSED SO MUCH GRIEF FOR POLLUTERS THAT THE DEC AND THE GOVERNOR TRIED TO CUT HIS BUDGET. BUT THE OUTCRY FROM THE VOTERS IN NEW YORK SHOWED CUOMO THAT WARD IS A FORCE TO BE RECKONED WITH!

WARD WILL BE SPEAKING ABOUT THE AKWASASNE RESERVATION, LAND SO POLLUTED THAT THE NATIVE PEOPLE CAN NO LONGER CONTINUE THEIR TRADITIONAL WAY OF LIFE. FIND OUT WHAT IS AND ISN'T BEING DONE TO HELP THE MOHAWKS.

WARD WILL BE SPEAKING ON **THURSDAY, NOVEMBER 1, AT 6 PM, IN ROOM 109**. FOOD AND DRINK WILL BE AVAILABLE BEFORE AND AFTER THE PRESENTATION.

**What:** "Taking Care: A Seminar on the New Health Care Agents and Proxies Act, Living Wills, and Health Care Decision Making."  
**When:** Saturday, 10/27, at 8:30 am.  
**Where:** Moot Court Room.  
**Lowdown:** Presented by the Erie County Bar Association.

**What:** Resumé Writing Sessions.  
**When:** Monday, 10/29, at 2 pm and Friday 11/2, at 12:30 pm.  
**Where:** Rooms 109 and 106, respectively.  
**Lowdown:** A chance to brush up on your resumé writing skills.

**What:** Training Session for Advocates for Victims of Domestic Violence.  
**When:** Thursday, 11/8, in the evening.  
**Where:** To Be Announced.

**What:** Buffalo Environmental Law Society Bake Sale.  
**When:** Monday, 11/12 in the morning.  
**Where:** In front of the law library.

**What:** Second Statewide Labor & Environment Conference  
**When:** Friday - Sunday, 11/16 - 11/18.  
**Where:** SUNY College of Environment and Forestry, Syracuse.  
**Lowdown:** A meeting of activists at a major educational conference to build a movement for labor and environmental justice. (for more info., contact Andrea Sammarco, # 512.)

## \*\*\* MANDATORY \*\*\*

Treasurer's Meeting of  
ALL LAW SCHOOL ORGANIZATIONS

## THURSDAY

## October 25th

## 6 P.M.

## SBA Office

The Deadline for  
the next issue of  
*The Opinion*

is October 29th at 5:00pm  
Please submit articles to box 677 or 808.



# New York Bar Review Course Summer 1990 Enrollments

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